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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/751,530

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EXAMINER

SOL, ANTHONY M

ART UNIT

PAPER NUMBER

2465

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/751,530

Applicant(s)

KOMAGATA ET AL.

Examiner

ANTHONY SOL

Art Unit

2465

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-53, 57-63, 67 and 68 is/are rejected.
- 7) ☒ Claim(s) 54-56 and 64-66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- Applicant's Amendment filed 4/28/2011 is acknowledged.
- Claims 27-48 have been canceled.
- Claims 49-68 have been added.
- Claims 49-68 are now pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 49-53, 57, 59-63, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,570,849 B1 ("Skemer") in view of Pub. No. US 2002/0031086 A1 ("Welin").

Regarding claims 49 and 59,

Skemer shows in fig. 2 a packetizing blocks 41 and 33 configured to packetize information and data into a stream of non-real time packets 54 (col. 11, lines 13-16) and a stream of real time packets 50 (col. 11, lines 1-6; col. 8, lines 49-50, *At least two egress queues are required*), successive ones of the real time packets in one of the streams being chronologically separable by a time interval 8.3 ms (fig. 3)(col. 12, lines 13-18, *This allows at most 8.3 ms window for the non-real time data 54 to use*).

Skemer further shows in fig. 2 a stream transmitting portion 21 (col. 11, lines 43-46) configured to transmit a non-real time packet from the stream of non-real time packets 54, said non-real time packet being transmissible during a non-real time period 53, wherein said non-real time period 53 is said time interval 8.3 ms when said time interval is determined to be longer than a transmission time for the non-real time packet, said transmission time for the non-real time packet being a time length for transmission of said non-real time packet (col. 12, lines 16-18, *This allows at most 8.3 ms of the launch window for the non-real time data 54 to use. This 8.3 ms window is the non-real-time window 53*).

Skemer shows in fig. 2 Real-Time Queue 13 and Non-Real-Time Queue 14 (claim 59 – buffer memories).

Skemer does not explicitly disclose streams of real time packets (i.e., more than one stream).

Welin shows in fig. 8 channels carrying real time streams of packets (para. 252).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of transmitting interleaved real-time and non-real time data on a packet based network as disclosed by Skemer (see Abstract) to accommodate multiple streams of real-time packets as taught by Welin (see fig. 8 and para. 252). One skilled in the art would have been motivated to make the combination because a computing system that processes multiple channels is suitably implemented in a central office packet switch or gateway to a packet network (Welin, para. 78).

Regarding claims 50 and 60,

Skemer shows in fig. 3 scheduling transmission of real time traffic window 51 followed by non-real-time window 53 of at most 8.3 ms (claimed non-real time period) of the launch window for the non-real time data 54 to use wherein during the non-real-time window 53, there is an absence of a real time packet request (col.12, lines 7-29).

Regarding claims 51 and 61,

Skemer discloses that the third element is a network interface that is responsive to the non-real-time queue (claimed real-time packet request being a request to transmit non-real time packet)(col. 6, lines 9-10).

Regarding claims 52 and 62,

Skemer shows in fig. 2 Packet Network Interface 21 which facilitates the transmission of the interleaved data stream including the real-time packets (col. 11, lines 40-46).

Regarding claims 53 and 63,

Skemer shows in fig. 2 a Packet Network Interface 21 that transmits a stream of real-time packets. However, Skemer does not explicitly disclose transmitting two streams of real-time packets.

Welin shows in fig. 1 computer interface (claimed stream transmitting portion) to transmit real time packets from at least two streams of real time packets as shown in fig. 8.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of transmitting interleaved real-time and non-real time data on a packet based network as disclosed by Skemer (see Abstract) to accommodate multiple streams of real-time packets as taught by Welin (see fig. 8 and para. 252). One skilled in the art would have been motivated to make the combination because a computing system that processes multiple channels is suitably implemented in a central office packet switch or gateway to a packet network (Welin, para. 78).

Regarding claims 57 and 67,

Skemer discloses non-real-time IP packets of information (col. 11, lines 7-8) such as IP traffic (col. 7, line 67)(claimed non-real time packets are packets of information).

Skemer further discloses that real time packets are packets of the data (col. 11, lines 3-4).

3. Claims 58 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skemer in view of Welin and further in view of Pub. No. US 2004/0037294 A1 ("Yamaguchi").

Regarding claims 58 and 68,

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Skemer discloses non-real time IP packets (col. 11, lines 7-8)(claimed information).

Skemer discloses real-time data such as video (claimed data being moving picture)(col. 5, lines 46-47).

Skemer-Welin combination does not disclose that the information is text.

Yamaguchi discloses that IP packet include contents such as text (para. 48).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of transmitting interleaved real-time and non-real time data on a packet based network as disclosed by Skemer-Welin combination (see Skemer, Abstract) so that non-real time data includes information that are text as taught by Yamaguchi (see para. 48). One skilled in the art would have been motivated to make the combination because text data is generally not time sensitive information.

Allowable Subject Matter

4. Claims 54-56 and 64-66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments with respect to claims 49-68 filed 4/28/2011 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY SOL whose telephone number is (571)272-5949. The examiner can normally be reached on M-F 7:30am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anthony Sol/

Primary Examiner, Art Unit 2465

7/5/2011